RSC Republican Study Committee

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Legislative Bulletin……………………………….December 21, 2010

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H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act *(Cuellar, D-TX)*

Order of Business: The bill is scheduled to be considered on Tuesday, December 21, 2010, under a closed rule. This legislation passed the House on June 16, 2010, by voice vote. It was then referred to the Senate Committee on Homeland Security and Governmental Affairs. On December 16, 2010, the legislation was amended and passed the Senate by unanimous. The Senate amendments failed on December 17, 2010, by a roll call vote of 212-131, under suspension of the rules.

Summary: H.R. 2142 would require the Office of Management and Budget (OMB) to designate performance improvement officers at each federal agency to be responsible for conducting an assessment of each program of the agency at least once every five years. In addition, agencies would have to form performance review councils to work with OMB on the efficiency upgrades. The bill would implement program assessments to identify program goals, submit improvement plans, and designate agency improvement officers within each agency, among other goals.

Performance improvement officers would be tasked to supervise the performance management activities of the agency, including development of the agency's strategic plans, annual performance plans, and annual performance reports. The bill also allows the officer to assist the head of the agency in the development and use of performance measures in personnel performance appraisals and other agency personnel and planning processes.

The bill allows the Director of the OMB to establish a Performance Improvement Council to facilitate the exchange among agencies of information on performance management, including strategic and annual planning and reporting, to accelerate improvements in program performance. Finally, the Director of the OMB may require the development of an internet website that provides the public with information on how well each agency performs and that serves as a source of information for the public on their activities.

Additional Information: The Government Performance and Results Act of 1993 (GPRA) requires federal agencies to define their mission and evaluate their performance. CBO estimates that the federal government spends between $50 million and $100 million annually to comply with current GPRA requirements.

Potential Conservative Concerns: Some conservative have expressed concern the bill authorizes $75 million to establish agency performance officers and interagency councils, but does not contain an effective means in which to consolidate or eliminate ineffective programs at each agency. Additionally, some conservatives have expressed concern that H.R. 2142 does not contain an amendment introduced in committee mark-up by Rep. Schock (R-IL). The amendment would have established a "Federal Program Sunset FERC" to evaluate agency performance and eliminate programs that failed performance standards, were found to be duplicative, or determined to be unnecessary (modeled on Rep. Brady's Federal Sunset Act).

There is no CBO cost estimate for the version of the bill that passed the Senate. The version approved by the Senate Governmental Affairs Committee is estimated to authorize $75 million of new spending, subject to appropriation.

This legislation mandates the creation of several new government-wide and agency-specific management plans, however it does not increase executive accountability for failing programs.

Amendments insisted by Republicans during the House Committee markup have been removed from the version that passed the Senate. These amendments would have restored significant accountability to the bill.

This legislation would not measure the performance of every program. It would instead require agencies to prepare "strategic plans" every four years which would outline general goals and objectives for their major functions and operations. Every two years, agencies would be required to identify "priority goals." These strategic plans and priority goals will be used by the Administration to promote its priorities rather than critically measure the performance of government programs.

H.R. 2142 would allow agencies to design their performance plans and then measure their own results using their own performance indicators. Rather than requiring agencies to focus on achieving measurable outcomes, H.R. 2142 makes the creation of outcome-oriented performance measures optional.

Committee Action: On April 28, 2009, the bill was referred to the House Committee on Oversight and Government Reform. The full committee held a mark-up on May 20, 2010, and the legislation, as amended, was reported by a voice vote. This legislation passed the House on June 16, 2010, by voice vote. It was then referred to the Senate Committee on Homeland Security and Governmental Affairs. On December 16, 2010, the legislation was amended on the floor, and passed the Senate by unanimous consent.

The House voted on December 17, 2010, on the Senate amendments, and this measure failed under suspension of the rules, by a recorded vote of 212-131.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: There is no CBO score for the version that passed the Senate yesterday. CBO had scored the version that was approved by the Senate Homeland Security and Governmental Affairs Committee, but the bill was amended on the Senate floor.

CBO had estimated that additional spending among the 23 major federal agencies would vary significantly but average around $1 million a year each to implement those new requirements. In total, CBO estimates that implementing H.R. 2142 would expand GPRA requirements and increase spending $75 million governmentwide over the 2011-2015 period, assuming the availability of appropriated funds.

Does the Bill Expand the Size and Scope of the Federal Government? Yes. H.R. 2142 authorizes $75 million, of new spending subject to appropriation.
Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? House Report 111-504 states that H.R. 2142 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

Constitutional Authority: House Report 111-504 cites constitutional authority in Article I, Section 8, Clause 18 of the Constitution of the United States.

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